

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY AC D.C.

05 SEP 30 PM 3:11

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W.D. OF TENNESSEE

KELVIN SETTLE,

Petitioner,

vs.

T.C. OUTLAW,

Respondent.

X
X
X
X
X
X
X
X
X
X
X

No. 05-2150-Ma/P

ORDER OF DISMISSAL

Petitioner Kelvin Settle, Bureau of Prisons inmate registration number 26754-044, an inmate at the Federal Prison Camp in Millington, Tennessee, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 on February 23, 2005. The Court issued an order on March 11, 2005 directing the petitioner, within thirty (30) days, to file a properly completed in forma pauperis affidavit, along with a copy of his inmate trust fund account statement, or pay the habeas filing fee. The petitioner did not respond to that order.

After the March 11, 2005 order was prepared but before it was signed, the Clerk docketed an in forma pauperis application that had been submitted with the complaint but had not been filed at that time because it did not contain an original signature. That

affidavit did not substantially comply with the Court's order because it does not disclose any information concerning the plaintiff's inmate trust fund account. Nonetheless, because the failure of the Court's original order to discuss this affidavit may have confused the petitioner, the Court issued an order on June 1, 2005 that directed the petitioner, for the second time, to submit a properly completed in forma pauperis affidavit and a copy of his inmate trust fund account statement or pay the five dollar (\$5.00) habeas filing fee within thirty (30) days of the date of entry of this order. That order further provided that "[f]ailure to timely comply with any requirement of this order will result in dismissal of the petition without further notice for failure to prosecute." 06/01/05 Order at 2.

The petitioner has not complied with, or otherwise responded to, the June 1, 2005 order, and the time set for compliance has expired. Accordingly, the Court DISMISSES the petition without prejudice, pursuant to Fed. R. Civ. P. 41(b), for failure to prosecute.

IT IS SO ORDERED this 30th day of September, 2005.



SAMUEL H. MAYS, JR.
UNITED STATES DISTRICT JUDGE



Notice of Distribution

This notice confirms a copy of the document docketed as number 6 in case 2:05-CV-02150 was distributed by fax, mail, or direct printing on September 30, 2005 to the parties listed.

Kelvin Settle
FPC-MILLINGTON
26754-044
P.O. Box 2000
Millington, TN 38083

Honorable Samuel Mays
US DISTRICT COURT